



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA-R06-OW-2013-0221; FRL-9904-86]

Ocean Dumping Regulations: Atchafalaya-West Ocean Dredged Material Disposal Site Designation; Calcasieu, Sabine Neches, and Atchafalaya- East Site Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and technical amendment.

SUMMARY: Pursuant to section 102(c) of the Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA), the EPA today designates the Atchafalaya-West Ocean Disposal Site (ODMDS-West), located adjacent to and west of the Atchafalaya River Bar Channel (ARBC) of Louisiana as a permanent ocean dredged material disposal site (ODMDS). This designation will allow continued use of the site, which was previously designated a temporary site pursuant to MPRSA section 103(b).

In addition to the designation, the EPA now issues a technical amendment to correct seven typographical errors.

The designation of the Atchafalaya ODMDS-West disposal site does not by itself authorize the disposal of dredged material, but makes the site available for use for dredged material from the ARBC if no environmentally preferable, practicable alternative for managing that dredged material exists, and if analysis of the dredged material indicates that it is suitable for open-water disposal. This action is to designate adequate, environmentally-acceptable ocean disposal site capacity for suitable dredged material from the ARBC.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA established a docket for this action under Docket ID No. EPA-R06-OW-2013-0221. All documents in the docket are listed on the <http://www.regulations.gov> website. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Marine & Coastal Section (6WQ-EC), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act Review Room between the hours of 8:30 am and 4:30 pm weekdays except for legal holidays. Contact the person listed in the FOR FURTHER INFORMATION CONTACT paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Jessica Franks, PhD, Marine and Coastal Section (6WQ-EC), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-8335, fax number (214) 665-6689; e-mail address franks.jessica@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

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I. Background

The background for today's action is discussed in detail in our May 21, 2013 proposal [78 FR 29687, Tuesday, May 21, 2013]. We received no comments on the proposed rule itself, and two comments on the draft Environmental Impact Statement (EIS) for the proposed designation. Those comments were addressed in the Final EIS (Section 4.3.6.2 and Section 5.3), which is available at <http://www.epa.gov/region6/water/ecopro/feis-odmms-west-final.pdf>.

For the Calcasieu, LA, Dredged Material Site 3, the EPA found a typographical error in 40 CFR 228.15(j)(7)(i), 4th longitudinal coordinate, which was incorrectly published as 93° 16'5"W. The correct longitude for coordinate number 4 is 93° 16'25"W. For the Sabine-Neches, TX, Dredged Material Site D, the EPA found a typographical error in 40 CFR 228.15(j)(25)(i), 3rd longitudinal coordinate, which was incorrectly published as 93°44'10"W. The correct longitude for coordinate number 3 is 93° 41' 10" W. For the Sabine-Neches, TX, Dredged Material Sites A-D and Atchafalaya East, LA, the EPA did not clarify which North American Datum was used for the location coordinates. According to 228.15(a)(3) the default datum is NAD27. The correct North American Datum for these sites is NAD83.

This final rule is also a record of decision in accordance with 40 CFR 1505.2.

II. Final Action

The EPA hereby designates the Atchafalaya-West Ocean Disposal Site (ODMDS-West) as a permanent ocean dredged material disposal site (ODMDS) pursuant to MPRSA Section 102(c). This ODMDS is located adjacent to and west of the Atchafalaya River Bar Channel of Louisiana.

This action also corrects the typographical errors as noted in the Background section of this preamble.

III. Regulatory Requirements

Details of the regulatory requirements of this rule are in our May 21, 2013 proposed rule, 78 FR 29694, Tuesday, May 21, 2013. To summarize, this final rule complies as follows:

- It complies with the National Environmental Policy Act of 1969 (NEPA) under the doctrine of functional equivalency; the EPA has relied on information from the final Environmental Impact Statement in its consideration and application of ocean dumping criteria to the ODMDS-West;
- It complies with the Endangered Species Act (ESA), regarding consultation with the U.S. Fish and Wildlife Service in that designation of the ocean disposal site is not expected to adversely affect any threatened or endangered species or their critical habitat;
- It complies with the Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSFCMA) regarding consultation with the National Marine Fisheries Service (NMFS) in that designation of the ocean disposal site is not expected to have significant impacts to marine fishery resources;
- It complies with the Coastal Zone Management Act, regarding federal activities that affect a state's coastal zone in that the designation of the ODMDS-West is not inconsistent with the approved Louisiana Coastal Resources Program;
- It complies with the Coastal Barrier Improvement Act of 1990 in that project activities related to disposal are exempt from the prohibitions set forth in the act.

IV. Statutory and Executive Order Reviews

Details of the applicability of executive orders and statutory provisions to this rule are in our May 21, 2013 proposed rule, 78 FR 29695, Tuesday, May 21, 2013. To summarize, this final rule complies with applicable executive orders and statutory provisions as follows:

- It is not a 'significant regulatory action' subject to office of Management and Budget (OMB) review under Executive Order 12866 (58 FR 51735, October 4, 1993);
- It does not impose an information collection burden under the provisions of the Paperwork Reduction Act 44 U.S.C. 3501 *et seq*;

- It is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601);
- It does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- It does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- It is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- It has no Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000);
- It is not an economically significant regulatory action subject to Executive Order 12866 (62 FR 19885, April 23, 1997), and does not present a disproportionate risk to children;
- It is not a significant regulatory action under Executive Order 12866 and so is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001) ;
- It is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113, 12(d) (15 U.S.C. 272 note) as it does not involve technical standards; and
- It will not have a disproportionately high and adverse human health or environmental effects on minority or low-income populations subject to Executive Order 12898 (59 FR 7629).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2) and its effective date thus need not be delayed for 60 days.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Dated: December 18, 2013.

Ron Curry,
Regional Administrator, Region 6.

In consideration of the foregoing, part 228, Chapter I of Title 40 of the Code of Federal Regulation is amended as follows:

Part 228— CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.15 is amended by

- a. Revising paragraph (j)(7)(i);
- b. Revising paragraph (j)(21)(i);
- c. Revising paragraph (j)(22)(i);
- d. Revising paragraph (j)(23)(i)
- e. Revising paragraph (j)(24)(i);
- f. Revising paragraph (j)(25)(i); and
- g. Adding paragraph (j)(26).

The additions and revisions read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(j) ***

(7) ***

(i) *Location:* 29°37'50"N., 93°19'37"W.;

29°37'25"N., 93°19'33"W.; 29°33'55"N., 93°16'23"W.; 29°33'49"N., 93°16'25"W.;
29°30'59"N., 93°13'51"W.; 29°29'10"N., 93°13'49"W.; 29°29'05"N., 93°14'23"W.;
29°30'49"N., 93°14'25"W.; 29°37'26"N., 93°20'24"W.; 29°37'44"N., 93°20'27"W.

* * * * *

(21) * * *

(i) *Location (NAD83)*: 9E20'59.92"N, 91E23' 33.23"W, 29E20'43.94"N, 91E23'09.73"W,
29E08'15.46"N, 91E34'51.02"W, and 29E07'59.43"N, 91E34'27.51"W; thence to point of
beginning.

* * * * *

(22) * * *

(i) *Location (NAD83)*: 29° 24'47"N., 93° 43' 29" W.; 29° 24' 47" N., 93° 41' 08" W.; 29° 22' 48"
N., 93° 41' 09" W.; 29° 22' 49" N., 93° 43' 29" W.; thence to point of beginning.

* * * * *

(23) * * *

(i) *Location (NAD83)*: 29° 21' 59" N., 93° 43' 29" W.; 29° 21' 59" N., 93° 41' 08" W.; 29° 20'
00" N., 93° 41' 09" W.; 29° 20' 00" N., 93° 43' 29" W.; thence to point of beginning.

* * * * *

(24) * * *

(i) *Location (NAD83)*: 29° 19' 11" N., 93° 43' 29" W.; 29° 19' 11" N., 93° 41' 09" W.; 29° 17'
12" N., 93° 41' 09" W.; 29° 17' 12" N., 93° 43' 29" W.; thence to point of beginning.

* * * * *

(25) * * *

(i) *Location (NAD83)*: 29°16'22" N., 93°43'29" W.; 29°16'22" N., 93°41'10" W.; 29°14'24" N., 93°41'10" W.; 29°14'24" N., 93°43'29" W.; thence to point of beginning.

* * * * *

(26) Atchafalaya River and Bayous Chene, Boeuf, and Black, LA (ODMDS-West)

(i) *Location (NAD83)*: 29°22'06" N, 91°27'38" W; 29°20'30" N, 91°25'13" W; 29°09'16" N, 91°35'12" W; 29°10'52" N, 91°37'33" W; thence to point of beginning.

(ii) *Size*: 48 square miles

(iii) *Depth*: Ranges from 4 to 23 feet

(iv) *Primary Use*: Dredged material.

(v) *Period of Use*: Continuing use.

(vi) *Restrictions*: Disposal shall be limited to dredged material from the Atchafalaya River Bar channel that complies with EPA's Ocean Dumping Regulations. Dredged material that does not meet the criteria set forth in 40 CFR part 227 shall not be placed at the site. Disposal operations shall be conducted in accordance with requirements specified in a Site Management and Monitoring Plan developed by EPA and USACE, to be reviewed periodically, at least every 10 years.

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[FR Doc. 2013-31263 Filed 01/02/2014 at 8:45 am; Publication Date: 01/03/2014]